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title through the tenant and is equally estopped from denying the landlord's title. *In re Emery and Barnett*, 4 C. B. N. S. 423, 431. The answer to this argument as applied to the principal case, however, is that the true owner does not claim against the landlord through the tenant, but by virtue of his own paramount title. Consequently he is not estopped from setting up the tenant's statements against the landlord. See *Russell v. Erwin's Adm'r*, 38 Ala. 44. This result, though reached on purely technical grounds, seems to be desirable, for in the majority of such cases the only possession which the true owner has reason to notice is the possession of the tenant, and so long as that possession is not adverse it does not seem just that he should lose his rights in the land.

THE DOCTRINE OF WAIVER IN INSURANCE LAW. — Probably in no branch of the law are questions of waiver of so frequent occurrence or of so great practical importance as in insurance litigation. Speaking generally, the defense of waiver can be established only by showing a contract to waive or the existence of such circumstances as will furnish ground for an estoppel. In insurance cases this rule was stated at an early period, and prevails to-day in a few jurisdictions. *Merchants Mut. Ins. Co. v. Lacroix*, 45 Tex. 158; and see *Weidert v. State Ins. Co.*, 19 Ore. 261. The tendency of recent adjudications in such cases, however, is to allow a waiver, though there be no basis for it in contract or estoppel. *Titus v. Glen Falls Ins. Co.*, 81 N. Y. 410, overruling *Ripley v. Aetna Ins. Co.*, 30 N. Y. 136. This has long been true in certain other branches of the law. Thus a surety who has been released because the creditor gave time to the principal debtor by agreement, revives his liability by acknowledging himself to be liable. *Hooper v. Pike*, 72 N. W. Rep. 829 (Minn.). An indorser of a bill of exchange, in a similar manner, by a promise to pay waives the defense created by the holder's failure to notify him of dishonor. *Segerson v. Mathews*, 20 How. (U. S. Sup. Ct.) 496. These decisions rest largely on their analogy to cases involving the waiver of the Statute of Limitations, where an unsupported promise has long been held sufficient. WOOD, LIMITATIONS, § 68. In all such cases the defenses waived have been raised by technical rules of law, the effect of which courts may well wish to avoid. An argument from these classes of cases to others must be made with caution. A line of decisions having a more direct bearing upon the insurance cases establishes the rule that the acceptance of rent which accrued after the forfeiture of a lease by breach of condition, waives the forfeiture. *Pennant's Case*, 3 Co. 64 a. The acceptance of rent is an acknowledgment of the existence of a lease; hence the lessor cannot later deny the lease without taking inconsistent positions.

The latest and most extreme expression of the view that waiver need not be based upon either contract or estoppel is found in an Indiana decision. *Germania Fire Ins. Co. v. Pitcher*, 64 N. E. Rep. 921 (Ind., Sup. Ct.). A fire insurance policy contained the condition that proof of loss must be made within sixty days after a fire. To establish a waiver of this condition the insured set up in replication that the company had based its refusal to pay the policy not upon the breach of the condition but upon a different ground. The court, in overruling a demurrer to this replication, stated that a refusal within the sixty day period would be a waiver *per se*. This point seems fairly well established, and correctly, since from the company's act

the insured is justified in assuming that a proof of loss would be useless. The court further held, however, that if the company's refusal occurred after the expiration of the sixty days there still would be waiver, since the refusal would be evidence of an actual intent to waive. No ground for an estoppel or contract was alleged and there was no opportunity for applying the rule against inconsistent positions, since the defendant company by its refusal not only did not recognize the policy as binding, but expressly denied all liability under it. The holding seems clearly to the effect that the mere expression of an actual intention to waive will without more establish a waiver.

Contracts of insurance in many respects are subject to special rules, the tendency of which is to favor the insured. It is in accord with this treatment to dispense with the strict technical requirements of a contract or of an estoppel as the basis of a waiver. In every case, however, where the court has found a waiver something in the nature of an estoppel has existed. See *Armstrong v. Agricultural Ins. Co.*, 130 N. Y. 560. The principal case goes beyond this, and takes a position which on authority at least is apparently unjustifiable.

THE CONSTITUTIONAL PROHIBITION OF THE DELEGATION OF LEGISLATIVE POWER. — The political movement in favor of the Referendum gives increasing importance to the question of the constitutional right of the legislature to submit proposed laws to popular vote. The desire of cities for a greater degree of self-government, and the growing distrust of legislatures as shown by the restrictions placed upon them in the later state constitutions, combine to increase the demand that the people be given direct control in law-making. The somewhat unsettled condition of the law on this point encourages the advocates of the reform to work under the present constitutions rather than to attempt to pass amendments. In a recent case an act limiting the compensation of the officers of a certain county was held void since it was to take effect only on approval by popular vote. *State v. Garver*, 64 N. E. 573 (Oh.). The Ohio Constitution expressly prohibits the legislature from passing laws to take effect on the approval of any further authority. Under that provision the Ohio courts make the cases turn largely on the wording of the acts; the law must be declared to be a complete and valid law on its passage, but its execution may be made dependent on a favorable vote of the people. *Cincinnati, etc., R. R. v. Commissioners of Clinton County*, 1 Oh. St. 77.

That a legislature may not delegate its law-making powers to any individual or body is well established as being a general principle implied if not expressed in all of our constitutions. See *Bradley v. Baxter*, 15 Barb. (N. Y.) 122. It may not let others pass upon a proposed law, nor may it, by a law which is itself complete, grant away the power to make laws. The legislators are said to be trustees for the people and to have no right to assign to others their high responsibility. Just what is covered by that expression is, however, uncertain. Both theory and precedent authorize the legislatures to clothe municipal corporations with powers of a local administrative nature and to submit to the voters of special districts matters of local government. Questions of municipal subscription for special improvements and questions as to the location of county seats are instances of such action. *Starin v. Town of Genoa*, 23 N. Y. 439; *Commonwealth v. Painter*, 10